

II. PARTIES

A. Named Plaintiff

4. Plaintiff McCay is over the age of nineteen (19) and is a resident of Nashville, Davidson County, Tennessee. Plaintiff McCay has been employed by Defendants as a Bartender since January 6, 2021.

B. Defendants

5. Defendant Anzie Blue, LLC is a manager managed Tennessee limited liability company doing business within this judicial district.

6. Defendant Anzie Blue, LLC owns and operates the Anzie Blue coffee, CBD, and wellness shop located in Nashville, Davidson County, Tennessee.

7. Defendant Anzie Blue, LLC employs individuals, including Plaintiff, who are engaged in interstate commerce.

8. Defendant Anzie Blue, LLC has at all relevant times been an employer within the meaning of the FLSA.

9. Defendant Derek Van Mol is an owner of Anzie Blue, LLC.

10. Defendant Derek Van Mol is responsible for employment decisions, including pay decisions, for Anzie Blue, LLC's employees, including Plaintiff.

11. Defendant Derek Van Mol employs individuals who are engaged in interstate commerce.

12. Defendant Derek Van Mol has at all relevant times been an employer within the meaning of the FLSA.

13. Defendant Marcie Van Mol is an owner of Anzie Blue, LLC.

14. Defendant Marcie Van Mol is responsible for employment decisions, including pay

decisions, for Anzie Blue, LLC's employees, including Plaintiff.

15. Defendant Marcie Van Mol has at all relevant times been an employer within the meaning of the FLSA.

III. FACTS

16. Anzie Blue is a Nashville-based coffee, CBD, and wellness shop, serving breakfast, lunch, dinner, coffee and cocktails, and CBD. Originally located in the Belle Meade neighborhood of Nashville, Anzie Blue relocated to 2111 Belcourt Avenue in the Hillsboro Village neighborhood in December 2020.

17. Plaintiff and those she seeks to represent in this action have been employed by Defendants in "Front of the House" jobs, including as Bartenders, Cashiers, Baristas, and Runners at Anzie Blue. Bartenders, Cashiers, Baristas, and Runners are referred to as "Front the House employees" throughout this Complaint.

18. Front of the House employees serve Anzie Blue's customers by taking their orders, serving them beverages, answering questions about the menu, and interacting with them to ensure that they have a positive experience at Anzie Blue.

19. Through their work serving customers, Front of the House employees earn tips.

20. Customer tips are paid through both electronic (*i.e.*, credit card and debit card) and cash transaction.

21. Pursuant to Anzie Blue's policy and practice, these tips are all paid to Anzie Blue.

22. Anzie Blue refers to the tips being paid to the "House," which is shorthand for the Defendants.

23. Anzie Blue knew that these tips were earned by Plaintiffs and other Front of the House employees.

24. Anzie Blue nevertheless kept these tips.

25. In keeping these tips, Anzie Blue knew or acted with reckless disregard of the fact that these tips belonged to and were the property of the Front of the House employees, who earned them, and of whether keeping these tips violated the FLSA.

IV. COLLECTIVE ACTION ALLEGATIONS

26. Plaintiff asserts her FLSA claims pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of the following individuals:

All hourly-paid Front of the House employees, including Bartenders, Cashiers, Baristas, and Runners, of Defendants who have worked at any time since February 1, 2018.

27. Plaintiff's claims should proceed as a collective action because Plaintiff and other Front of the House employees, having worked pursuant to the common tip policy and practice described herein, are "similarly situated" as that term is defined in 29 U.S.C. § 216(b) and the associated decisional law.

V. CAUSES OF ACTION

COUNT I

VIOLATION OF THE FLSA'S PROHIBITION OF EMPLOYERS KEEPING EMPLOYEES' EARNED TIPS

28. All previous paragraphs are incorporated as though fully set forth herein.

29. Plaintiff asserts this claim on behalf of herself and all similarly situated individuals who opt into this action by filing a consent form, pursuant to 29 U.S.C. § 216(b).

30. Plaintiff and similarly situated workers are employees entitled to the FLSA's protections.

31. Defendants are employers covered by the FLSA.

32. Defendants required Plaintiff and similarly situated employees to pay their earned tips to the "House," which resulted in Defendants keeping their earned tips.

33. Defendants are not permitted to receive any portion of the tips earned by their employees. *See* 29 U.S.C. § 203(m).

34. Defendants' policy and practice of requiring Plaintiff and similarly situated employees to pay their earned tips to the "House" violates this provision of the FLSA.

35. Plaintiff seeks to recover, for herself and all similarly situated employees who join this litigation, the amount of all earned tips that Defendants unlawfully kept, as well as an equal amount as liquidated damages. 29 U.S.C. § 216(b).

36. In violating the FLSA, Defendants acted willfully and with reckless disregard of clearly applicable FLSA provisions.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief on behalf of herself and all others similarly situated:

A. An order permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);

B. Prompt notice of this litigation, pursuant to 29 U.S.C. § 216(b), to all similarly situated employees;

C. A finding that Defendants have violated the FLSA;

D. A finding that Defendants' FLSA violations are willful;

E. A judgment against Defendants and in favor of Plaintiff and all similarly situated employees for all unpaid and underpaid minimum and overtime wages that Defendants have failed and refused to pay in violation of the FLSA;

F. A judgment against Defendants and in favor of Plaintiff and all similarly situated employees for all tipped monies they earned that were improperly kept by Defendants, in violation

of the FLSA;

G. Pre-judgment and post-judgment interest to the fullest extent permitted under the law;

H. Liquidated damages to the fullest extent permitted under the FLSA;

I. Litigation costs, expenses, and Plaintiff's attorneys' fees to the fullest extent permitted under the FLSA and the Federal Rules of Civil Procedure; and,

J. Such other and further relief as this Court deems just and proper.

VII. JURY DEMAND

Plaintiff demands a jury as to all claims so triable.

Date: February 1, 2021

Respectfully submitted,

/s/ Joshua A. Frank

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